

PRO JUSTITIA

SENTENCE.

IN THE NAME OF THE QUEEN !

The Temporary Court-martial in MOROTAI in the case of the Prosecutor, *ratione officii*, against

OGIHARA GORO. aged 45, born at DAISANMURA, district HOSHIKAWA, prefecture FUKUOKA, 1st Lieutenant in the KENPEITAI (Military Police), now detained in MOROTAI prison.

In view of the order by the Prosecutor dated 13th Aug. 1947 committing the case for trial by the Temporary Court-martial, in which order the accused is charged:

- I. that he at TOBELO, at anyrate in the Netherlands East Indies, on a date not now to be precised but about February or March 1945 therefore in time of war, as a subject of the enemy power Japan, in or at anyrate during his function as 1st Lieutenant of the KENPEI Tai, committed a war crime by proposing to Captain SOUGAHARA the execution of a group of about 30 persons, the names of whom cannot now be given, which persons were living in or near MEDI village, among them being a number of lepers and after having consulted with and received the consent of Captain SOUGAHARA ordered KIMURA CHOGORO, 2nd Lieutenant in the KENPEI, his subordinate, to have the above-mentioned group executed at MAPO on 5th March 1945 by members of his, KIMURA's detachment, which order was carried out on or about that date, he, the accused, having therefore by an abuse of authority intentionally incited the act committed by the members of the KENPEI detachment at MAPO, the commission of which act constitutes a violation of the laws and customs of war.
- II. that he at TOBELO, at anyrate in the Netherlands East Indies, on a date not now to be precised but about April, May or June 1945 therefore in time of war, as a subject of the enemy power Japan, in or at anyrate during his function as 1st Lieutenant of the KENPEI, committed a war crime by giving his subordinate DOI orders to execute LUTHER TAKASERANG who was a leper and on that account condemned to death without trial, which order was carried out, he, the accused, having therefore by an abuse of authority intentionally incited the act which was committed, the commission of which constitutes a violation of the laws and customs of war.
- III. that he at KOEPA-KOEPA, at anyrate in the Netherlands East Indies, on or about 22nd July 1945, at anyrate in the year 1945 therefore in time of war, as a subject of the enemy power Japan, in or at anyrate during his function as 1st Lieutenant in the KENPEI, committed a war crime by ordering Sergt. Major SINGAKI of the KENPEI, the KENPEI man ANDOU and some ten Japanese soldiers the names of whom cannot now be given, to kill without trial all natives of whom it might be supposed that they wished to escape to the island of MOROTAI, already occupied at that time by the Allies, as a result of which order the following persons were killed by the above group on the night of 22nd-23rd July 1945 at the mouth of the KOEPA-KOEPA river: the wife of KAROBOW ITO, SENE LASIKOEDA, KAROLINA MAHORO and her little daughter PETRONELLA HERAN; and further on 23rd JULY 1945 a group of soldiers under the command of the above-mentioned ANDOU killed the following men and women near the MASO river: LA TETE, WIDI, WILLEM MOLOKOE, OERIA MOLOKOE, NEHEMIA, MARTEN KANTJAI, JONIAS, WILLEM, BERNADUS, LAMEN, LOERANG, ZEPNAT and BALSASAR and the women DOMINGGAS MOLOKOE, ROSINA, Josina, DOE, ESTEFINA, AUGUSTINA, MARTHA, ADELEINA, LINIKO ANTJE, MARIAM, MELINA, GEREDJA and GARAGA, therefore the commission of these acts constitutes a violation of the laws and customs of war.

- IV. that he at KOEPA-KOEPA, at anyrate in the Netherlands East Indies, on or about 23rd July 1945 therefore in time of war, as a subject of the enemy power Japan, in or at anyrate during his function as 1st Lieutenant in the KENPEI, committed a war crime by sending Sergt. Major SINGAKI of the KENPEI a letter containing the order to have three Chinese and four Indonesians living near PATJA village executed immediately by ANDOU, the said Chinese and Indonesians being suspected by him of espionage on behalf of the Allies and therefore condemned by him to death without a trial, the result being that the Chinese LIE TJENG YOEN, TJONG TJONG TJONG and TJONG YOEN SIEN and the wife of the district head BILATOR, an Indonesian girl of about 17 and two Indonesian boys whose names cannot now be given, lost their lives, he, the accused, having therefore by an abuse of authority intentionally incited the act committed, the commission of which constitutes a violation of the laws and customs of war.
- V. that he at GAMSORNGI, at anyrate in the Netherlands East Indies, on or about 24th July 1945 therefore in time of war, as a subject of the enemy power Japan, in or during his function as 1st Lieutenant in the KENPEI, committed a war crime by giving his subordinate KIMURA CHOGORO orders to have KUMOBLOEKOEBI and his wife executed, these being suspected by him, the accused, of inciting Indonesians to fly from HALMAHEIRA to the island of MOROTAI, at that time occupied by the Allies, for which reason he, the accused had condemned them to death without trial, the order for which execution was passed on by KIMURA to MOTOSHIMA who carried it out, he, the accused, having therefore intentionally by an abuse of authority incited the act committed, the commission of which constitutes a violation of the laws and customs of war.
- VI. that he at TOBELO, at anyrate in the Netherlands East Indies, on a date not now to be precised but about Feb. 1945 therefore in time of war, as a subject of the enemy power Japan, in or at anyrate during his function as 1st Lieutenant in the KENPEITAI, committed a war crime by ordering his subordinate Sergt. KARASHIMA to kill TENG who was suspected by him, the accused, of having stolen Japanese goods for which reason TENG was condemned to death without trial, which order was carried out, he, the accused having therefore by an intentional abuse of authority incited the act committed by KARASHIMA, the commission of which act constitutes a violation of the laws and customs of war.
- VII. that he at TOBELO, at anyrate in the Netherlands East Indies, on a date not now to be precised but about June 1945 therefore in time of war, as a subject of the enemy power Japan committed a war crime by giving orders to his subordinate DOI to kill HIMO DOPIES, suspected by the accused of having committed sabotage against the Japanese army or at anyrate of having incited others thereto and for that reason condemned to death without trial, which order was carried out, he, the accused, having therefore by an intentional abuse of authority incited the act committed by DOI, the Commission of which act constitutes a violation of the laws and customs of war.
- VIII. that he at TOBELO, at anyrate in the Netherlands East Indies, on a date not now to be precised but about June 1945 therefore in time of war, as a subject of the enemy power Japan, in or at anyrate during his function as 1st Lieutenant in the KENPEITAI, committed a war crime by ordering his subordinate TANAKA to kill HABEA whom he, the accused, suspected of having killed a Japanese soldier, and who on that account was condemned to death without trial, which order was carried out, he, the accused, having therefore by an abuse of authority intentionally incited the act committed by TANAKA, the commission of which act constitutes a violation of the laws and customs of war.

- IX. that he at TOBELO, at anyrate in the Netherlands East Indies, on a date not known to be precised but on or about 21st July 1945 therefore in time of war, as a subject of the enemy power Japan, in or during his function as 1st Lieutenant of the KENPEITAI, committed a war crime by ordering his subordinate KIMURA CHOGORO to have RIBOEI executed, he, the accused, suspecting RIBOEI of having murdered one or more Japanese soldiers and having condemned him on that account to death without trial, which order KIMURA passed on to MAKIMURA who had this order carried out by NIWA HARUMI, he, the accused, having therefore by an abuse of authority incited the act committed by NIWA HARUMI, the commission of which act constitutes a violation of the laws and customs of war.

In view of the serving of the writ and summons dated 13th Aug. 1947, whereby the accused is summoned to appear at 2 p.m. on Wednesday, 24th Aug. 1947 at the session of the Temporary Court-martial sitting in the room put aside for the purpose in the offices of the Military Prosecutor in MOROTAI;

In view of the demand by the Prosecutor read out and then handed to the Temporary Court-martial, to the effect that it please the Temporary Court-martial:

- I. To declare the charges brought against the accused to be legally and convincingly proved.
- II. To qualify as the war crime "incitement to murder" that under II, V, VI, VII, VIII and IX declared to be proved;
to qualify as the war crime "incitement to mass murder" that under I, III and IV declared to be proved.
- III. To sentence the accused to the Death penalty.

In view of the documents in the case in so far as use was made of them and they shown, read out to and seen by the accused;

In view of that advanced in his defence by the accused and his counsel;

Regarding Count I of the charge.

Considering that the accused denies having proposed to Captain SOUGAHARA that the lepers belonging to MEDI village be executed, saying that on the contrary he received this order from the said captain after which he ordered his subordinate, the KENPEI man KIMURA, to carry out the execution with the help of the KENPEI men belonging to his, the so-called MAPO, detachment, in collaboration with the soldiers whom SOUGAHARA was to place at his disposition;

that at the sitting the declarations on oath made by the witnesses SOUGAHARA ISAO, dated 19th Jan. 1947, HIDEO Matsunaga, dated 13th May 1946, and KIMURA CHOGORO, dated 15th Jan. 1947, were read out to and seen by the accused;

that the following has been established from these declarations as well as from what the accused himself has said and stated at the sitting in so far as this was of interest here:

1. that about Feb. 1945 a meeting took place of various army authorities at which meeting Colonel MATSUNAGA gave orders for the prohibited zone along the coast to be announced; the inhabitants must be evacuated from this territory;
2. that MEDI, a village where lepers from the TOBELO leper colony had established themselves after TOBELO had had to be evacuated, was also in the area concerned;
3. that after this the decision was taken - by whom is left out of consideration for the moment - that the lepers in MEDI were to be executed; that this execution was eventually carried out at the beginning of March 1945 by KENPEI's of the MAPO detachment, reinforced by 2 KENPEI's from TOBELO and with the collaboration of 20 to 25 soldiers belonging to the SONOMURA detachment, the KENPEI man KIMURA CHOGORO being in charge, after the latter had received orders to this effect from the accused;

Considering with regard to who really made the decision to execute the MEDI lepers and who gave the order to that effect, that in the sentence passed on SOUGAHARA by this Court-martial on 8th Aug. 1947 it was already considered that nothing had been established as to whom the plan to execute the lepers from MEDI was due in the first instance, the accused (here SOUGAHARA) and OGINARA each blaming it on the other and having already had a dispute about it in the presence of Colonel MATSUNAGA as appears in the latter's statement which was read out at the sitting, while there are also no other positive declarations by witnesses about it or other clues;

that the Court-martial therefore does not consider anything more proved than that the accused agreed with the plan as he himself has stated; that after this it was arranged that the KENPEITAI from MAPO should carry out the execution, while the accused would see that some soldiers were given to help;

that, further, SOUGAHARA brought to the fore that he did not stand in a relationship to OGINARA of a superior to an inferior thus being able to give the latter orders, while the accused now asserts that SOUGAHARA had the supreme authority in the TOBENO sector, and in the matter of military operations, such as the first MEDI operation now been dealt with, could certainly give him orders which it was his, the accused's, duty to carry out;

that the Court-martial, although this latter assertion appears fairly improbable in view of the special and independent position which as is generally known the KENPEITAI occupied in the frame-work of the Japanese military system, does not then consider it proved that the accused proposed to Captain SOUGAHARA that the MEDI lepers should be executed nor, too, that he asked and received SOUGAHARA's consent to this;

that for the rest however, by the accused's own admission and the above-mentioned witnesses' declarations on oath legal and convincing proof has been produced of the first act charged against the accused this narrowing down therefore to, that the accused, after consultation with SOUGAHARA - for there very certainly must have been a consultation between the two over the carrying out of the execution - gave his subordinate KIMURA orders to have the lepers from MEDI executed by KENPEI men belonging to his detachment, which order was carried out;

that in this connection the accused's defence with regard to the first count of the charge amounts therefore to a plea of superior orders, casu quo, of duress;

that in the first place this defence put forward by the accused, as has been considered above, appears very unacceptable in view of the special position occupied by the KENPEITAI, but it will not do for another reason as well, namely, because it has appeared only too clearly that the accused, granted that he did indeed receive an order from SOUGAHARA to that effect and was also obliged to carry out that order, was in no way forced to collaborate in the execution against his will;

that the accused, as he himself indeed has stated, had only two objections to the execution, first, that it might perhaps have an unfavourable influence on the feelings of the population and, secondly, that he found it a very disgusting job to kill these lepers, his objections in other words not being grounded on the injustice of this mass murder and that it would be deserving of punishment, as he the accused has expressly stated that he considered the execution to be a fully justified military measure in the circumstances; for the rest he has also stated that an evacuation would have been quite possible too;

that the Court-martial is of the opinion then that the accused equally with Captain SOUGAHARA, who among other things was sentenced in connection with this act in the above-mentioned judgment, must be made responsible for this horrible mass murder, which was not based on any reasonable grounds, of about 35 completely innocent and defenceless victims, inhabitants of the leper village MEDI, there even being several entirely healthy and sound people among them as appears from the statement by the sworn witness SAMUEL TAKASENSERANG dated 23rd May 1946 which was read out later at the sitting;

that what has been charged under I, in so far as declared proved above, produces the war crime "intentional incitement to mass murder by abuse of authority";

Regarding Count II of the charge.

Considering that at the sitting the accused has stated among other things that about May 1945 he heard from Captain SOUGAHARA that the son of the male head-nurse TAKASENSERANG, was a leper and must be executed by the KENPEITAI; that he thereupon had an inquiry carried out by the KENPEI man DOI as he knew nothing about this fact himself, SOUGAHARA's report turning out indeed to be correct; that it also appeared however that the leper lived very much apart and gave no danger of any sort of contamination so that it did not appear necessary to the accused that he should be executed; that he reported this too to SOUGAHARA but the latter sent him a message that all the lepers had been executed in the MEDI operation and so this one must be killed also, to which the accused made no reply; that in the beginning of June he again received intimation from SOUGAHARA, that the execution would now be carried out by the SOUGAHARA detachment, and with an order to place somebody belonging to the KENPEITAI at the disposition of the detachment to act as guide and interpreter; that he then selected DOI for this purpose who, when 10 soldiers and a non-commissioned officer appeared on the appointed day at the KENPEITAI office, went off with this group as guide and interpreter; that the same evening DOI reported to him that the execution had taken place; that after this the statement of the interrogation of the sworn witness SOUGAHARA ISAO dated 21st May 1947 was read out to and seen by the accused; that SOUGAHARA stated that he had informed the accused that the order for the leper's execution came from Colonel MATSUNAGA himself, but this is denied by the accused; that for the rest however both statements agree with each other; that further the accused was also shown and had read out to him the statements containing the declarations made on oath to the Prosecutor Dr D. van ECK by the witnesses SAMUEL TAKASENSERANG and DOI MASAKAZU, respectively dated 23rd May 1946 and 21 May 1947, which declarations in the main confirm the accused's statements; that by judgment of this Court-martial dated 14th Aug. 1947 the aforesaid DOI MASAKAZU was sentenced among other things for complicity in the murder of LUTHER TAKASENSERANG; that in that judgment as far as this point was concerned it was only declared proved that DOI fetched LUTHER TAKASENSERANG from his house, took him to the place of execution and told him he was going to be executed; that now also from what has been said by the accused and from the aforementioned witnesses' declarations nothing more has appeared that that the accused gave his subordinate DOI orders to accompany the soldiers of the SOUGAHARA detachment who were to carry out the execution, he, DOI, to act as guide and interpreter, but not also to have the leper executed; that in fact Sergt. KIMURA of the SOUGAHARA detachment and his soldiers had obviously already before going to OGIHARA's office received orders, either directly or indirectly, from SOUGAHARA to execute the leper and nothing appears either that OGIHARA himself needlessly repeated the same order; that therefore it has only been proved that accused by misuse of authority instigated DOI to complicity in the murder of the leper, which however has not been charged against him so that accused must be acquitted of the second act with which he has been charged.

Regarding Count III of the charge.

Considering that the accused has among other things stated about this: that during the last months before Japan capitulated more and more people

fled from HALMAHEIRA to the Allied occupied island MOROTAI; that naturally in this way the Allies learnt a great deal about the situation on HALMAHEIRA which brought with it very prejudicial results, not only for the Japanese but also for the population as bombings were incessant, many villages also being hit through this; that an order then came from Colonel MATSUNAGA containing that everybody of whom it appeared that he was trying to escape to MOROTAI was to be killed, which order was made known everywhere to the population at "gatherings" and by means of gatherings of village headmen; that in spite of this it became steadily more dangerous for the Japanese in the TOBELO area and Japanese were even murdered regularly by the population; that when on a tour of inspection he saw a great number of rafts lying anchored, from which it might be concluded that another large-scale attempt to escape had been planned, he thought it necessary to take effective measures and, mindful of Colonel MATSUNAGA's order, he made a speech in front of the KOEPA-KOEPA KENPEITAI office to the KENPEI men SINGAKI and ANDOU, as well as to some soldiers belonging to the MATSUNAGA detachment, in which among other things he ordered them to go that evening to the mouth of the KOEPA-KOEPA river to watch there for possible fugitives and to kill them, and, further, they were also to kill all natives whom they met in that part of the forbidden zone which was under Captain ARAI's authority, because in connection with several boats and rafts having been signalled along the coast he considered everyone met in the forbidden zone as a fugitive; that early next morning a soldier who had accompanied SINGAKI came to him, reporting that a number of natives had dropped down the river on rafts of whom one lot of them had been shot dead while another lot had sprung from the rafts and escaped into the forest; that on the evening of that same day ANDOU came to him and reported that about 20 people, men and women, had been executed near the MASO river; that at the sitting the following were read out to and shown the accused: the statements of declarations made on oath to the Prosecutor Dr D. van ECK during his interrogations of the witnesses SINGAKI TSUNESHIGE, ANDOU YOSHIHISA, KOLOFINO ITO, DOMINGGOES HERAN, SINGAKI TSUNESHIGE, ARAI SADAKICHI, PENINA BINTI KANTJAI, HAJAMARA GOTIMONO and ANDOU YOSHIHISA, respectively dated 13th Jan. 1947, 13th Jan. 1947, 19th May 1946, 19th May 1946, 26th Nov. 1946, 28th Nov. 1946, 6th Nov. 1946, 7th Nov. 1946 and 13th Nov. 1946; that the declarations made by SINGAKI TSUNESHIGE amounted briefly to this: that at KOEPA-KOEPA on 22nd July 1945 OGIHARA made a speech to him, ANDOU and some soldiers belonging to the SAZAKI detachment camped at KOEPA-KOEPA in which among other things he said that he had seen several rafts on the KOEPA-KOEPA river and so suspected that the natives were wanting to escape, and he also gave them orders to go to the mouth of the KOEPA-KOEPA river and at once shoot dead any escaping natives; that he, ANDOU, and the other soldiers went that night to the place mentioned and did there in fact shoot at escaping natives; that it was so dark however that he could not see what happened but he did hear people jumping into the water and then when it got lighter at sea he saw an overturned proa and two rafts floating about, while he found the body of a native lying on the river bank; that the same morning a messenger came from OGIHARA with a written order containing among other things that the Chinese who were inside the ring of forts belonging to the ARAI detachment were to be killed as was also everyone they might meet on the way; that he and ANDOU then separated and when they met at the place agreed upon ANDOU told him that he had met 20 natives on the way who obviously wanted to escape from HALMAHEIRA; that he then gave ANDOU the soldiers he had with him so as to help him execute these natives, having first in agreement with OGIHARA's order ordered him to go and kill the Chinese living near the ARAI detachment; that after this he went back and knows nothing further himself which he can tell about the executions;

that the declarations by ANDOU YOSHIHISA are almost the same as those of SINGAKI, while they contain the following with regard to the mass execution at the MASO river:

that after the incident at the mouth of the KOEPA-KOEPA he and SINGAKI went separate ways to see if there were perhaps more people wanting to escape to MOROTAI;

that then near a group of four children he came across about 20 people, men, women and children, while he saw stretchers lying on the ground piled with clothes and household goods;

that he asked one of the men what they were doing and the latter answered that they were moving to another village;

that there was sufficient reason however to suspect that these people too were wanting to escape, and when he met SINGAKI later at the spot agreed upon he told him this;

that SINGAKI shared his opinion and gave him orders to take the 14 soldiers he had with him and go and kill the people in question after first having executed the Chinese living near the ARAI detachment as OGIHARA had ordered;

that after having carried out this last order he went off with the 14 soldiers SINGAKI had placed under his command to the place where he had met the fugitives who were still there;

that he then went off with these people in the direction of the coast but lost his way and ended up near the MASO river; that he then decided to have these people shot at that spot and gave the soldiers orders to this effect;

that first the men then the women were shot on the river bank;

that the declaration by the witness KOLOFINO ITO contains:

that on 22nd July 1945 about 90 people including herself, left WALALOI village on 18 rafts by way of the KOEPA-KOEPA river, meaning to escape to MOROTAI;

that when about 3 a.m. they arrived near the mouth of the river they were suddenly shot at without any warning, 2 women, KARABOE ITO and SENE LASIKODOE, being fatally hit;

that the declaration by the witness DOMINGGOES HERAN contains:

that she also belonged to the 90 people who wanted to escape to MOROTAI;

that when at the mouth of the KOEPA-KOEPA river the raft on which she happened to be was shot at a little girl aged about 5, called PETRONELLA HERAN, was mortally hit, while this child's mother, KAROLINA MAKORO, who was also hit but managed to swim ashore, died immediately after;

that the declaration by the witness ARAI SADAKICHI contains in substance:

that on 23rd July 1945 the KENPEI man SINGAKI came to him with the request to give him some soldiers to help him arrest a number of people who were wanting to escape to MOROTAI;

that he considered it certainly in the interest of the Japanese army to prevent natives escaping to the Allied occupied island MOROTAI and so put 14 soldiers at SINGAKI's disposition;

that he learnt the following day from one of the soldiers called OKAMURA, that SINGAKI had made over the command to ANDOU, after which ANDOU had gone with him to a village from which they took about 20 natives off with them;

that after some hours walking they arrived at a river where ANDOU stopped him and told him that the natives were to be killed at that spot because they wanted to escape from HALMAHEIRA;

that after this first the men and then the women were shot on the river bank;

that the statement by the witness PENINA BINTI KANTJAI contains in substance:

that on a certain day she and the other inhabitants of MITI had to evacuate to KATANA and from there again to KOEPA-KOEPA;

that she had already been living in KOEPA-KOEPA for about three months when one day some 30 people, including women and children, went to KIWOE to prepare sago;

that one morning there a KENPEI man came along who asked one of the women where they came from, the latter answering that they came from KOEPA-KOEPA and had gone to KIWOE to fetch food; that after he had written down their names the KENPEI man left, saying that they must wait and that he would return at midday to take them to KOEPA-KOEPA;

that he did in fact return at midday and took them with him, some 13 more Japanese all armed with a rifle having meanwhile appeared on the scenes; that having walked for a bit they arrived at the MASO river where they were stopped and had to put down their luggage;

that the men were then all lined up on the bank of the river after which they were shot at by some Japanese soldiers and fell down forwards; that the names of the men shot down like this were: LATETE, WIDI, WILLEM, OERIA, NEHEMIA, BERNARDUS, LAMECH, JONIAS, MAARTHIN, ROLAND, WILLIAM, BALSABAR, and SAFNATH;

that JONATHAN, a boy of about 4, was not hit because another person fell on top of him so that the Japanese did not notice he was still alive; that meanwhile one of the women called GOTIMONO had managed to escape; that the women were then shot in the same way as the men, but that she was not hit because two other women had fallen on top of her; that the Japanese, who thought that everyone was dead, then covered the bodies with leaves and left, taking their luggage with them; that after having lain quiet for 1½ hours she plucked up courage to crawl from under the heap and then found that she and JONATHAN were the only survivors;

that the names of the shot women were: JOSINA, DOI, COSTAFINA, AUGUSTUNA, DOMINGGAS, ROSINA, ANDELINA, MARTHA, GEREDJA, ANTJE, SINIKO and MIRJAM; that the declaration by the witness HAJAMANI GOTIMONO agrees in substance with that of PENINA BINTI KANTJAI, notably, that at the moment the men were led to the riverbank she became very frightened and ran into the wood, a shot being sent after her which wounded her in the elbow;

Considering that various names of the persons shot, such as these appeared in the charge and which had evidently being taken from the statement dated 30th Nov. 1946 of the interrogation of the witness PENINA BINTI KANTJAI by the assistant magistrate at TOBELO, which statement is also among the documents in the case, differ somewhat from those in the statement of the interrogation by the Prosecutor of the same witness, the Court-martial wishes to pass this by without comment as it is quite obvious that the same people are intended;

that at the sitting the name JONATHAN was struck out of the charge by the Prosecutor, which JONATHAN turned out to be a survivor, together with a woman, of this mass murder;

that from the statements made by the accused which contain an admission, taken in conjunction with the declarations of the above-mentioned witnesses, legal and convincing proof has been produced of the third act laid to the accused's charge;

that the accused certainly now says that he acted pursuant to an order from Colonel MATSUNAGA but this order, if it did indeed exist, further indications of this being lacking, was quite unlawful in so far as it contained that every attempt to escape to MOROTAI, even if such attempt was or could be prevented, could be punished by death without trial, while the character of such an order definitely cannot be that of one which must be strictly carried out but only a general directive, the execution of which was left to the commandants of the various sectors, so that it must thus have been very easy to avoid carrying it out in the cases now under consideration without this having prejudicial results for the commandant who failed to execute the order of a superior;

that without any warning the fugitives were suddenly fired at near the mouth of the KOEPA-KOEPA river, although the escape could easily have been prevented and even the attempt could easily have been nipped in the bud by OGIHARA if he had taken appropriate measures to this end immediately after discovering the vessels, which discovery aroused the suspicion in his mind that an attempt to escape was being considered;

that, furthermore, an order to kill anyone who might be met in a certain area on the sole supposition that in every case people would be concerned who wished to escape to MOROTAI, cannot be called a following-up of the alleged order by MATSUNAGA to execute anyone of whom it had appeared that he was wanting to escape to MOROTAI; that in view of the declarations by PENINA BINTI KANTJAI and HAJAMANI GOTIMONO it is also very doubtful whether those natives executed near the MASO river did wish to escape to MOROTAI; that the accused therefore bears the full responsibility for this second mass murder;

Regarding Count IV of the charge.

Considering that the accused admits being guilty of the same and has made the following statements about it; that on 22nd July, after SINGAKI, ANDOU and the soldiers had left for the mouth of the KOEPA-KOEPA river in order to intercept and kill possible fugitives there, he, the accused, visited the MINSEIBU (Japanese civil administration officer) at KOEPA-KOEPA, a man called YEMURA, who told him that he suspected BILATOE, one of the Indonesians living near the ARAI detachment, of espionage; that he then decided to give SINGAKI written orders to bring BILATOE to him, at the same time ordering him to have the other people living near the ARAI detachment executed - these were 3 Chinese, BILATOE's wife and daughter and 2 Indonesian boys - because they were living in the forbidden zone, and because he assumed that they too had something to do with the proas and rafts he had come across everywhere that day; that he sent the letter in question to SINGAKI by the KENPEI-man NAGASAKI, after which SINGAKI brought BILATOE to him next day, reporting at the same time that ANDOU had seen to the execution of the Chinese and Indonesians near the ARAI detachment; that he sent BILATOE to YEMURA and does not know what happened to him further; that at the sitting the accused was shown and had read out to him the statements of declarations on oath made to the Prosecutor by the witnesses KIMURA CHOGORO, ARAI SADAKICHI, SINGAKI TSUNESHIGE and ANDOU YOSHIHISA, respectively dated 15th Jan. 1947, 11th Jan. 1947, 13th Jan. 1947 and 7th Jan. 1947; that the declaration by the witness KIMURA CHOGORO contains among other things: that in connection with the Chinese and with the Indonesian family living near the ARAI detachment at PATJA, therefore within the forbidden zone, about May or 2 June 1945 he had received a letter from Major OMORI, commandant of the KATANA detachment, which contained that Major MATSUHAWA, Colonel MATSUNAGA's adjutant, asked him to leave these people undisturbed; that in his regular 5 days' report to OGIHARA he notified him of the receipt of this letter, informing him that on this account he had not ordered these people to move as he had done to the other natives living in that area; that it was only 2 or 3 days after it had taken place that he heard of the execution of the Chinese and Indonesians; that he spoke to Major MATSUHAWA about this execution and the latter was very angry about it; that the declaration by the witness ARAI SADIKICHI contains among other things: that he heard from Major OMORI that the three Chinese and five Indonesians living in the forbidden zone near his detachment had received Colonel MATSUNAGA's permission to continue to live there; that Colonel MATSUNAGA was found of strong drink and the Chinese made "tjap tikoes" for him, while the Indonesians did jobs of all sorts; that the KENPEITAI had never asked him for information about these people; that on 24th July he heard from 2nd Lieutenant SHIRAISHI that all these people had been executed the previous day for espionage and because they were inciting the natives to flee from HALMAHEIRA;

that in June 1945 Major MATSUHARA, Colonel MATSUNAGA's adjutant, had certainly told him that one of these Chinese was suspected of espionage, but he knew nothing about it himself; that later he heard by rumour that Colonel MATSUNAGA was very angry that these people had been executed entirely without his knowledge; that the declaration by the witness SINGAKI TSUNESHIGE contains among other things: that early in the morning of 23rd July - it was the morning after the fugitives had been fired at the mouth of the KOEPA-KOEPA river - the Kenpeiman NAGASAKI had brought him a letter from OGIHARA in which it was said that after all the escaping natives had been wiped out he was to go to the ARAI detachment where the Chinese and BILATOE's family, all of whom were living there, were to be killed and BILATOE himself was to be taken to the KENPEI-TAI at KOEPA-KOEPA; that he went to the house of the Chinese where he found a man and two women (this should rightly have been two men and one woman) while in BILATOE's house the latter's wife, a young girl and two boys were found; that BILATOE himself returned a bit later and he told the latter to go on ahead as OGIHARA wanted to speak to him, while he himself had all the remaining people brought to the house of the Chinese and put a guard at the door; that he then went the ARAI detachment in order to fetch soldiers, and after having spoken to 2nd Lieutenant SHIRAISHI and Captain ARAI, he was given 14 soldiers with whom he went off in the direction of PATJA in order to meet ANDOU again; that just before reaching PATJA he met ANDOU who told him about the 20 persons he had met on the way and who were probably wanting to escape (see count III of the charge just dealt with); that he then told ANDOU to go there with the soldiers from the ARAI detachment, but that he must first go and execute the Chinese and Indonesians who were near the ARAI detachment, which order was carried out by ANDOU; that the declaration by the witness ANDOU YOSHIHISA is in complete agreement with that of the previous witness, with a further description of how the two Chinese men, the two Indonesians, and finally the Chinese woman, BILATOE's wife and a girl of 17 or 18, were successively shot by OYAMADA, MAEDA and YAMAGUCHI, soldiers belonging to the SAZAKI detachment; that through accused's admission of having written the letter in question and the declarations of the above witnesses who were heard on oath, legal and convincing proof has been provided of the fourth act charged against the accused; that from the declarations made by witnesses KIMURA CHOGORO and ARAI SADAKICHIKI it may be taken as established that the three Chinese and BILATOE and his family had permission from MATSUNAGA himself to remain living in the forbidden zone, and, even if one Chinese was suspected of espionage this was no reason to suspect all these people of espionage, and to suppose without more ado that they also had something to do with the rafts and proas the accused had come across, and with the attempt to escape which might be deduced from this discovery; that in any case the accused carried out no investigation after this nor had such carried out as he certainly ought to have done and he therefore has only himself to blame for his ignorance of the fact that these people had permission to live in the prohibited area; that therefore the full responsibility for this mass murder also rests on him; that the Court-martial certainly does not consider inadmissible the supposition put forward by the Prosecutor in his requisitory that the accused knew very well about the permission granted to these people but wanted to put a spoke in Colonel MATSUNAGA's wheel by depriving him of his suppliers of drink, though this of course cannot remain other than a supposition;

REGarding Count V of the charge.

Considering that the accused has denied being guilty of this, saying that he had neither given KIMURA nor anyone else orders to execute KOEMOELOEKOE-

BIE and his wife or to have them executed, ~~and~~ making the following statement in this connection;

that at a meeting of village-headman which took place at KOEPA-KOEPA on 20th July 1945, he learnt from the KENPEI-man MAKIMURI that the inhabitants of the villages LELEOTO and TAGALAJA were planning to escape to MOROTAI and that the headmen of these villages were the leaders of this;

that he ordered MAKIMURA to question the two headmen and to send them to the KENPEI detachment at KATANA;

that an investigation was also undertaken in the villages and that on the 22nd July he himself found some 45 bamboo rafts near the PATJA river which were intended to be used by the inhabitants of the aforesaid villages in their escape;

that on 24th July he met KIMURA at GAMSOENGI and gave him orders to execute the headmen of LELEOTO and TAGALAJA as well as all the inhabitants of TAGALAJA village;

that KIMURA then requested him that only the headmen of TAGALAJA and LELEOTO should be executed but not the rest of the inhabitants of TAGALAJA, and that he approved of this;

that KIMURA did not at that time say anything about the village policeman KOEMOELOEKOEIE and his wife, and it was only in August that he heard these names for the first time when he learnt of the execution of these two people;

that the statement he made to the Prosecutor on 4th July 1947 does differ somewhat but in so far as it differs he retracts this;

that at the sitting the accused was shown and had read out to him the statement of the interrogation on oath of the witness KIMURA CHOGORO by the Prosecutor, dated 4th June 1947, which statement contains among other things:

that he did in fact receive orders from OGIHARA to have all the inhabitants of TAGALAJA executed as well as all fugitives from LELEOTO village;

that for various reasons he thought this order unreasonable and not very easy to carry out, and that only the headman of LELEOTO as well as the village policeman KOEMOELOEKOEIE and the latter's wife should be punished as being those principally guilty;

that he suggested to OGIHARA that only the last three should be executed, and he would then stand surety for the inhabitants of TAGALAJA;

that OGIHARA agreed to this proposal whereupon he returned to KATANA;

that that night the headman of LELEOTO escaped which was told to Lt. Colonel HIRANO who came to KATANA at noon the following day;

that the latter became angry and gave him orders to have KOEMOELOEKOEIE and his wife executed at once;

that he then gave MOTOSHIMA orders to this effect, which orders ^{were} carried out;

Considering that the statements of the accused and of the witness KIMURA CHOGORO do not thus agree with each in so far that, according to the accused, KIMURA suggested to him that only the 2 village headmen should be executed and said nothing about the village policeman KOEMOELOEKOEIE and his wife, while KIMURA asserts that he did not want to have the TAGALAJA headman executed because he was a fine man and suggested to OGIHARA that only the headman of LELEOTO and village policeman of TAGALAJA called KOEMOELOEKOEIE, as well as the latter's wife, should be executed;

that on the one hand it is possible that by this denial the accused wished to get rid of the responsibility for the execution of KOEMOELOEKOEIE and his wife, while on the other hand it is equally possible that KIMURA, who has yet to answer for his deed to this Court-martial, is trying to whitewash himself by a false appeal to an order given him by OGIHARA;

that the Court-martial does not then wish to recognise the witness KIMURA's statement as having such evidentiary force as to consider that the 5th act charged against the accused has been legally and convincingly proved by it alone, seeing that no other witness' statement or information of any sort can be brought into the case to support it, so that the accused must be acquitted on this count;

Regarding Count VI of the charge.

Considering that the accused has admitted this act also and made the following statement about it:

that at the beginning of March 1945 AUGUSTINUS MAKANONENGO, who was charged with the supervision of a Japanese godown (warehouse) at GAMSOENGI, reported to the KENPEI man, DOI, that a certain TENG had stolen food from the godown, which DOI in his turn reported to the accused;

that he then gave DOI orders to arrest TENG and to investigate the matter;

that after this he received a written report of this investigation from which it appeared that TENG had broken into the godown and had stolen from it a case containing 4 or 5 dozen tins of meat;

that he considered this a very serious deed as the food position was already so bad and in different public proclamations it had already been made known that thefts of Japanese army goods would be punished by death, this being also posted up on the godown in question;

that the KENPEI often had to live on cats, rats and snakes and the food position of the population itself was very much more favourable;

that he gave the order for the execution because in connection with what has been said above it seemed to him a good thing to administer such a punishment;

that at the sitting the accused was shown and had read out to him the statement of the interrogation on oath of the witness DOI MASAKAZU by the Prosecutor, dated 13th Aug. 1946, and the statement of the interrogation of the witness AUGUSTINUS MAKANONENG by the assistant head of police at TOBELO, dated 28th May 1946, which statements in so far as this act is concerned agree with what has been said by the accused;

that by the accused's admission and the statements of witnesses just mentioned, taken in conjunction with each other, legal and convincing evidence has been provided of the sixth act charged against the accused;

that the accused pleads an order from Colonel ABE, head of the KENPEITAI on HALMAHEIRA, which order was issued in Oct. 1944 when communication with CELEBES was practically broken off and people accused of anything could not be taken there for trial, in which order it was said that all KENPEITAI district heads, he was thus included, were authorised in cases that might arise to order the execution of natives who had committed anti-Japanese acts;

that, further, apart from the fact that no other evidence can be produced showing that this order did indeed exist, accused himself has admitted knowing that according to Marshal TERAUCHI's regulations every accused must be tried by a court before he could be punished;

that the fact that accused persons could no longer be taken to CELEBES for trial, owing to communications being broken off with that island and by reason of increasingly difficult circumstances, which transfer as accused himself asserts always took place at first, could not be a reason for dispensing with a trial altogether, seeing that one or more courts-martial could have been formed on HALMAHEIRA and TERNATE (the number of Japanese on HALMAHEIRA amounted to between 30.000 and 40.000 men) and in fact there was a naval court-martial in KAU;

that the dealing out of punishments by someone who himself had conducted the preliminary investigation or had had this done by his subordinates, cannot be considered as any sort of trial, at least not according to legal concepts prevailing in this land nor, as far as the Court-martial knows, according to the Japanese legal system either, and accused must have understood this himself or at least should have done so;

that accused has stated that he knew of the existence of the "Rules for Landwarfare" but cannot remember its contents however as it is a long time since he had a look at them;

that the accused ought then also to have realised that he was not himself competent to punish accused persons although this competency was so-called given him by his superiors, therefore he should not have made use of this;

that, besides, the punishment given by him in casu bore no sort of proportion to the crime committed by the accused TENG;

that therefore it is a case here also of murder, the full responsibility for which rests on the accused;

Regarding count VII of the charge.

Considering that the accused had admitted this act also and has made the following statement about it:
that from April 1945 he repeatedly received orders from Colonel MATSUNAGA to have proas built, which orders he could not at first carry out as he could find no capable proa builders, but he finally had 10 Indonesians from GANSOENGI and W.K.O. villages brought along for this purpose, one of these men being HIMO DOPIES;
that gradually less and less men turned up to work and he then heard from one of his subordinates that HIMO DOPIES was carrying on propaganda to induce them not to work for the KENPEITAI any longer because when the Allies came they would punish those who had worked as being collaborators with the Japanese;
that he thereupon had HIMO DOPIES arrested and after having read the interrogation report, according to which HIMO DOPIES was said to have admitted that he was carrying on this propaganda, he gave DOI orders to execute HIMO DOPIES which order DOI carried out;
that at the sitting the accused was shown and had read out to him the statement containing the declaration made on oath by the witness DOI MASAKAZU to the Prosecutor, dated 13th Feb. 1947, which declaration agrees with the statement made by the accused in the matter;
that by the accused's admission and the witness' declaration just mentioned taken in conjunction with each other, legal and convincing evidence had been provided of the seventh act charged against the accused;
that in connection with this happening also, the accused pleads the authority given him to have persons suspected of anti-Japanese acts executed, but as has been weighed with regard to the previous count this plea does not stand;
that, further, according to the accused's own statement the ships to be built were intended to take men over to MOROTAI when that place was invaded which invasion had been planned by MATSUNAGA and was to take place very shortly after;
that the accused, who asserts that at the time he did sometimes read the "Rules for Land Warfare," should have known that according to these Rules no services might be demanded from the population of an occupied territory which would compel it to co-operate in the operations of war carried on against its own country;
that the only conclusion to be drawn in this case is the same as in the previous one, namely, that this act too must be qualified as murder and the accused must bear the full responsibility for this crime;

Regarding count VIII of the charge.

Considering that the accused has admitted this act also, saying however that he cannot now remember whether it was to TANAKA or DOI that he gave the order for the execution, while he has further given the following information in connection with this act:
that about March or April 1945 two Japanese were murdered by natives in the neighbourhood of the GONGA river;
that a punitive expedition was sent out and sometime later he received news from KIMURA, who was then at KATANA, that the authors had been arrested;
that a few days later MAEDA came to TOBELO with the two accused DOU and HABEA, bringing with him evidentiary material of different sorts such as, among other things, bits of military equipment belonging to the murdered Japanese;
that the accused were then questioned by DOI and from the statements of the interrogation it appeared that DOU had confessed;
that DOU however escaped and efforts to track him were unavailing;
that after HABEA had for some time denied being guilty he also finally admitted this, whereupon he, the accused, gave orders next day that HABEA was to be executed, it being reported to him a few hours later that this had been done;

that at the sitting the accused was shown and had read out to him the statements containing the declarations made on oath to the Prosecutor by the witnesses STEPHANUS SOUISA and DOI MASAKAZU, respectively dated 15th July 1946 and 2nd July 1946;
that the declaration by STEPHANUS SOUISA contains among other things that he was present as interpreter at DOU's interrogation and that DOU was accused of murdering a Japanese soldier who had stolen plants from DOU's garden in GONGA, to which murder DOU however would not admit;
that the declaration by DOI MASAKAZU contains among other things:
that DOU and HABEA were accused of having killed a Japanese soldier who was trying to steal vegetables;
that he questioned both the accused with the assistance of Police-constables PAULUS and SOUISA as interpreters;
that from this interrogation he gathered that both the accused confessed and he sent a report of this interrogation to OGIHARA who then gave orders for the accused to be executed;
that DOU however managed to escape, whereupon HABEA was executed by TANAKA the following day on orders from OGIHARA;

Considering that from what the accused himself has stated in this matter and from the witnesses' declarations just mentioned, all this taken in connection one with another, legal and convincing evidence has been produced of the eighth act charged against the accused;
that it is self-evident that neither in this case also, any more than in the two preceding ones, can the accused's plea that he was authorised to give orders for executions, stand;
that furthermore it is very doubtful if any evidence was obtained against HABEA, but should this have been the case was there not a very extenuating circumstance in the fact that the murdered Japanese was guilty of theft as has appeared in the declarations of both SOUISA and DOI MASAKAZU?
that accused therefore must also be made responsible for this act that, like the two preceding ones, constitutes murder;

Regarding count IX of the charge.

Considering that at the sitting the accused^{has} denied having given anybody orders to execute RIBOEI, stating as follows regarding this:
that about the middle of July MAEDA came to TOBELO with two natives who, as MAEDA told him, had, according to the MINSEIBU in KAU, taken part in the murder of two Japanese which had taken place at PATJA a short-time before;
that he then gave DOI orders to interrogate these two persons;
that DOI however found nothing incriminating whereupon he, the accused, sent MAEDA back with the two accused to KATANA with orders to submit them to another questioning there and if nothing incriminating appeared then, to send them back to the MINSEIBU at KAU;
that on 18th July KIMURA came to him and told him that something had been found against these two men, without however mentioning what it was, and he also did not ask KIMURA anything more about it;
that on 21st July he went to KATANA and there he heard that during KIMURA's absence both the accused had fled;
that he knows nothing further about this matter;
that at the sitting the accused was shown and had read out to him the statements of declarations made on oath to the Prosecutor by the witnesses KIMURA CHOGORO, MAEDA MASAO and NIWA HARUMI, respectively dated 28th Feb. 1947, 25th Feb. 1947 and 3rd March 1947;
that the declaration by the witness KIMURA contains among other things:
that about 10th July 1945 he received a letter from OGIHARA containing that MAEDA must go immediately to SOEMANTIK to fetch two men accused of the murder of the Japanese which had taken place shortly before then near LINA lake, and to bring them to TOBELO;
that MAEDA went off and a few days later appeared with these two natives at KATANA, with the message that OGIHARA had given orders to interrogate these persons at KATANA;

that MAEDA and NIWA then interrogated the two accused;
that two days later he received a letter from the MINSIBU at SOEMAETIK in which it was said that one of the accused named RIBOEI was in fact concerned in the murder of the Japanese;
that a Japanese soldier who was the only survivor of this murder also recognised RIBOEI as one of the natives concerned in the murder;
that he then sent a written report in connection with this affair to OGIHARA and two days later spoke to him personally in TOBELO;
that OGIHARA then gave him orders to have RIBOEI executed at once, while the other accused was to be sent back if there was no evidence against him; that he asked OGIHARA to give this order himself to his second-in-command MAKIMURA, as OGIHARA happened to be going to KATANA while he, KIMURA, had to go in the opposite direction;
that he came again to TOBELO four days later, OGIHARA having also just arrived back from KATANA;
that OGIHARA told him that the two accused had escaped but had already been re-arrested, giving him orders that the man guilty was to be executed immediately;
that on arriving at KATANA he then gave MAKIMURA orders to have RIBOEI executed at once and heard later from MAKIMURA that RIBOEI had been beheaded by NIWA;
that the declaration by MAEDA MASAO agrees with that of KIMURA in so far as this is concerned with his having fetched the accused and taken him to KATANA via TOBELO, that he together with NIWA had then questioned him and the following day confronted him with the Japanese who was the only survivor of the murder, whereat RIBOEI acknowledged that he was guilty;
that for the rest he only knows that KIMURA had sent a letter to OGIHARA concerning this matter to which an answering letter appears to have come from OGIHARA, and it was some days later that he heard that RIBOEI had been executed by NIWA HARUMI;
that the declaration by the witness NIWA HARUMI agrees with those of KIMURA and MAEDA and contains among other things:
that after RIBOEI's confession and after sufficient evidence had been collected against him, KIMURA sent OGIHARA a letter concerning this affair; that KIMURA had then to go off for a conference in GALELA and during his absence the two arrestees escaped;
that OGIHARA, who had just that day come to KATANA from TOBELO, when he heard of this flight gave MAKIMURA orders to have RIBOEI executed immediately after he was arrested;
that RIBOEI was again caught but MAKIMURA thought it better to wait for KIMURA'S return;
that about two days later KIMURA was back again in KATANA whereupon he gave MAKIMURA orders that he, NIWA, was to execute RIBOEI;
that MAKIMURA passed this order on to him, after which he, using his own sword, beheaded RIBOEI in the presence of MAKIMURA and another Japanese;
Considering that during the preliminary investigation the accused stated that he did in fact receive a letter from KIMURA about this matter in which it was stated that RIBOEI was the guilty person, and that he then wrote a letter back to KIMURA ordering him to have the guilty man executed at once and to send the other arrestee back, also that when KIMURA came to TOBELO on 21st July on his way to GALELA he told him once more verbally that RIBOEI must be executed, whereupon KIMURA asked him to give this order direct to MAKIMURA as he, OGIHARA, happened to be going to KATANA; that the accused however withdrew this statement at the sitting, saying that he was muddled then and had accidentally described the course of events as they had taken place according to KIMURA; but that things had really taken place however as he has now stated at the sitting;
Considering that the Court-martial however sees in this no justifiable reason to withdraw his original statement, and considers that evidence of the ninth act charged against the accused has been produced by this extra-judicial admission and the declarations of the witnesses KIMURA CHOGORO, MAEDA MASAO and NIWA HARUMI, which are in full agreement with it;

Considering therefore that what has been charged against the accused under I, with the limitations considered above, as well as that charged against him under III, IV, VI, VII, VIII and IX and his guilt therein, has been legally and convincingly proved; that as far as that charged under II is concerned, it must be taken into consideration that by a slight alteration in the charge incitement to complicity in the murder of LUTHER TAKASENSERANG would be declared proved, while as regards that charged under V the accused has himself declared that after originally having given orders for the village headman of LEBOTO and the entire village of TAGALAJA to be massacred he finally contented himself with the order that both village headmen were to be executed, so that the accused's moral liability to punishment is no less in these cases also, even though the acts charged against him under II and V are not declared proved;

Considering that the accused has already served for more than 20 years in the KENPEITAI and as an officer of this branch of the Japanese forces must certainly be considered criminally responsible for the crimes committed by the KENPEITAI unless it should appear that he had had nothing to do with these, this in accordance with the principle expressed in art.10 of the War Crimes Penal Law Decree; that it is self-evident that from the acts now charged against the accused there can be no talk of such an exonerating circumstance, and from the accused's actions and behaviour seen as a whole and which have now been subjected to the consideration of the Court-martial, it has been made abundantly clear that the accused, entirely in the spirit of the well known KENPEITAI system, had no other intention than that of carrying on an unscrupulous reign of terror among the inhabitants of the district of which he was commandant, and increasingly vented his impotent wrath upon the unfortunate population of HALMAHEIRA in proportion as the course of the war became more unfavourable for Japan; that even the severest punishment appears too light a retribution for all the misery and suffering which, partly and chiefly, by the accused's doing were sown upon HALMAHEIRA and for the streams of innocent blood with which he drenched the soil of that island, apart altogether from what he may undoubtedly have on his conscience from the earlier days of his KENPEITAI career, especially during the 5 years he spent in this capacity in CHINA;

In view of art.46 of the Rules for Landwarfare, art.1 of the Definition of War Crimes Decree, art.4 of Statute Book 1946 no.45, of the War Crimes Legal Procedure Decree:

Administering the Law :

Declares the guilt of the accused OGIHARA GORO, whose name appears at the head of this judgment, legally and convincingly proved as regards that with which he has been charged under I, with the limitations already mentioned, as also regards that charged under III, IV, VI, VII, VIII and IX;

Acquits him of that charged under II and V;

Declares him therefore guilty of:

1. incitement to mass murder, committed three times.
2. incitement to murder, committed four times.

Sentences him on this account to the DEATH PENALTY.

Sentence passed on 29th Aug.1947 by:

Capt.Dr D. VERMEULEN, Inf.Res.K.N.I.L., 1st Lt F.M.B. de BONT, Inf. and 1st Lt F.J. REMMER, Inf.Res., in the presence of Dr D. van ECK, Secretary, and summed up and decreed on 29th Aug.1947.

Noted by me:
The Secretary,
s/ Dr D. van Eck.

The President,
s/ Dr D. VERMEULEN.

Members,
s/ P.M.B. de BONT.
s/ F.J. REIMER.

FIAT OF EXECUTION :

Fiat of execution of the above sentence granted by me, Resident of the North Moluccas, this day 21st Oct. 1947.

The Resident of the North Moluccas

Pronounced in full Court-martial on 28th Oct. 1947 in the presence of the Prosecutor, the accused and the latter's counsel.

Noted by me:
The Secretary,
s/ D. van ECK.

The President,
s/ D. VERMEULEN.